

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HOANG KIM TRAN,

Plaintiff,

v.

CITY OF LAS VEGAS, *et al.*,

Defendants.

Case No. 2:22-cv-00203-ART-BNW

ORDER

Before the Court is Defendants' Motion to Quash Service. ECF No 39.

I. BACKGROUND

By way of background, this Court previously screened Plaintiff's complaint and allowed the Fourth Amendment excessive force claim to proceed against Officers Ortega, Lomoglio, Raso, Stokey, and Murano in their individual capacities. ECF No. 27. Summonses as to these Defendants were returned unexecuted as Las Vegas Metropolitan Police was unable to identify the Defendants. ECF No. 29. Since then, and in response to this Court's Order at ECF No. 31, the Las Vegas Metropolitan Police has provided the information needed for Defendants to be properly served. ECF No. 34. The summonses were returned unexecuted because the United States Marshal never received the USM-285 form from Plaintiff. ECF No. 38.

II. ANALYSIS

The record is clear that the summonses in this case have been returned as unexecuted. ECF No. 38. Thus, the Court denies Defendants' Motion as moot. As the Court previously indicated, Plaintiff must properly fill out the USM-285 forms and return them to the United States Marshal Office before service can be properly effectuated. Plaintiff filed documents at ECF No. 39 which he appears to believe show appropriate service. That is not the case as these individuals were never served. As a result, ECF No. 39 will be stricken.

III. CONCLUSION

IT IS ORDERED that the Clerk of Court must send Plaintiff five blank copies of form

1 USM-285.

2 **IT IS FURTHER ORDERED** that Plaintiff shall have until October 13, 2023 to fill out
3 the required USM-285 forms and send them to the U.S. Marshals Service. On the forms, Plaintiff
4 must fill in Defendants' last-known addresses (as provided at ECF No. 34).

5 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to issue summonses for
6 the Defendants.

7 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to mail a copy of ECF
8 No. 34 to Plaintiff.


9 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to mail a copy of this
10 order to Plaintiff.

11 **IT IS FURTHER ORDERED** that the Clerk of Court serve a copy of this order, the
12 issued summonses, and the operative complaint (ECF No. 25) on the U.S. Marshals Service.

13 **IT IS FURTHER ORDERED** that upon receipt of the USM-285 forms, the U.S.
14 Marshals Service shall, in accordance with Federal Rule of Civil Procedure 4(c)(3), attempt
15 service on the Defendants.

16 **IT IS FURTHER ORDERED** that, within 90 days of today's order, the U.S. Marshals
17 Service shall file the summonses returned as executed or a notice indicating why service has not
18 been effectuated.

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20 DATED this 22nd day of September 2023.

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22 
23 BREND A WEKSLER
24 UNITED STATES MAGISTRATE JUDGE
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